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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,086	01/28/2000	ULRICH BLEY	306.37599X00	6327

7590

05/28/2003

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EXAMINER

VANOY, TIMOTHY C

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 05/28/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/423,086

Applicant(s)

BLEY

Examiner

VANOY

Group Art Unit

1754

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

CPA REQUEST DATE-STAMPED SEPT. 9, 2002; SUSPENSION LETTER MAILED ON

☒ Responsive to communication(s) filed on

☒ This action is FINAL. NOV. 5 2002 AND THE AMENDMENT DATE-STAMPED MAR. 20, 2003.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other: _____

Office Action Summary

DETAILED ACTION

Re-Start of Time Period for Response

This supplemental office action is in response to the Preliminary Amendment dated March 20, 2003 which was filed on May 20, 2003 as paper no. 16 and was "crossed in the mail" with the office action mailed on May 12, 2003 (paper no. 15). The time period for responding to this supplemental office action will expire three months and zero days from the mailing date of this supplemental office action.

Expiration of Suspension of Office Action

The 6 month time period for suspending office actions set forth in 37 CFR 1.103(a) has expired.

Continued Prosecution Application

The request dated Sept. 9, 2002 for a Continued Prosecution Application (CPA) (paper no. 13) under 37 CFR 1.53(d) based on parent Application No. 09-423,086 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 195 05 568 A1 to Redecker et al.

The English abstract of DE 195 05 568 A1 discloses a propellant composition for airbags (please see the title), comprising a fuel which may be urea and/or derivatives; an oxidant such as peroxides, nitrates, etc. and combustion catalysts.

Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 195 05 568 A1 to Redecker et al.

Claim 12 in DE 195 05 568 A1 discloses that a propellant composition comprising sulfur, ferrocene, etc. is used in airbags placed in motor vehicles to inflate them. Pg. 3 Ins. 1-3 in the English translation of DE 195 05 568 A1 to Redecker discloses that when air bags are inflated in motor vehicles, toxic gases such as nitrogen oxides may be generated, and pg. 7, 3rd and 4th full paragraphs in the English translation of DE 195 05 568 A1 discloses that oxides, hydroxides, etc. of alkaline earth metals, zinc, etc. may be added to the composition so that they react with and remove the nitrogen oxides out of the generated gas, as set forth in applicants' claims 11-13.

The paragraph bridging pgs. 7 and 8 in the English translation of DE 195 05 568 A1 reports that the additive may be placed in the outflow channel of the generator, as set forth in applicants' claim 15.

Claims 11-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 195 05 568 A1.

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The difference between the applicants' claims and DE 195 05 568 A1 is that applicants' claim 14 sets forth that at least one component of the gas generating substance is coated with the additive, *however* it is submitted that this difference would have been obvious to one of ordinary skill in the art at the time the invention was made *because* the disclosure set forth in the paragraph bridging pgs. 7 and 8 in the English translation of DE 195 05 568 A1 reports that the additives may be incorporated directly in the gas generating batch and may be in the form of tablets, pills or granules fairly suggests that the gas generating substance may be coated with the additive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
-

The person having ordinary skill in the art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this application reasonably reflect this level of skill.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. The Applicants are advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 195 05 568 A1 to Redecker et al.

The English abstract of DE 195 05 568 A1 discloses a propellant composition for airbags (please see the title), comprising a fuel which may be urea and/or derivatives; an oxidant such as peroxides, nitrates, etc. and combustion catalysts.

The difference between the Applicants' claims and the DE 195 05 568 A1 is that the Applicants' claims 1-3 set forth the *use* of the composition for removing harmful gases from the gases generated by the pyrotechnical reaction and Applicants' claims 8-10 set forth the *device* for the agent and the use, however it is submitted that these differences would have been obvious to one of ordinary skill in the art at the time the invention was made because it is obvious to practice the method suggested in DE 195

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05 568 A1 (namely, reacting the composition of DE 195 05 568 A1 to inflate the air-bag) and to provide a device for practicing the method.

The difference between the Applicants' claims and DE 195 05 568 A1 is that Applicants' claim 7 sets forth that the gas generating substance is coated with the additive, however it is submitted that this difference would have been obvious to one of ordinary skill in the art at the time the invention was made because such coating of components in this art of producing airbag inflation compositions appears to be to conventional.

Response to Arguments

The Applicants' arguments submitted in their Amendment dated July 11, 2001, which has been filed as paper no. 8, with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy C. Vanoy whose telephone number is 703-308-2540. The examiner can normally be reached on 8 hr. days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Timothy Vanoy/tv


Timothy Vanoy

01 Aug. 2001

Patent Examiner

21 May 2003

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STANLEY B. SILVERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700